

## Message Text

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ORIGIN EB-11

INFO OCT-01 STR-08 TRSE-00 ARA-16 L-03 ISO-00 AGR-20

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CIEP-02 SS-20 TAR-02 USIA-15 PRS-01 SP-03 FEA-02

OMB-01 SWF-02 /170 R

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TREASURY: MR. SELF(DRAFT)

ARA: MR. DAVILA (DRAFT)

L/E: MR. BURNS(INFO)

----- 113976

P 182232Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY CARACAS

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E.O. 11652: N/A

TAGS: ETRD, VE

SUBJECT: CONSULTATIONS ON MULTILATERAL TRADE NEGOTIATIONS

REFS: (A) CARACAS 3189 (B) CARACAS 3261

1. AS EMBASSY IS AWARE, THE ADMINISTRATION'S TRADE REFORM  
ACT AND AMENDMENTS TO THE EXPORT ADMINISTRATION ACT ARE  
STILL UNDER CONSIDERATION IN THE SENATE AND MAY UNDERGO  
FURTHER REVISION. EMBASSY MAY INFORM GOV THAT SUPPLY  
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ACCESS PROVISIONS OF BILLS EMPHASIZE THE NEGOTIATION OF

AGREED RULES GOVERNING ACCESS TO SUPPLIES, AND IN THE CASE OF TRADE BILL ACCESS TO MARKETS.

2. ALTHOUGH THE EMPHASIS OF TRADE BILL IS ON NEGOTIATIONS, THE BILLS CONTAIN AUTHORITY WHICH WOULD ALLOW RETALIATION BY THE IMPOSITION OF IMPORT BARRIERS OR EXPORT CONTROLS, RESPECTIVELY, IN RESPONSE TO UNREASONABLE RESTRICTIONS ON ACCESS TO SUPPLIES. THIS WOULD INCLUDE PROBLEM OF UNREASONABLE (REPEAT) UNREASONABLE PRICE INCREASES.

3. WITH RESPECT TO RETALIATORY ACTION THE TRADE REFORM ACT READS IN RELEVANT PART:

"SECTION 301--WHENEVER THE PRESIDENT DETERMINES THAT A FOREIGN COUNTRY OR INSTRUMENTALITY...

(B)--ENGAGES IN DISCRIMINATORY OR OTHER ACTS OR POLICIES WHICH ARE UNJUSTIFIABLE OR UNREASONABLE AND WHICH BURDEN OR RESTRICT U.S. COMMERCE...THE PRESIDENT SHALL TAKE ALL APPROPRIATE AND FEASIBLE STEPS TO OBTAIN THE ELIMINATION OF SUCH RESTRICTIONS...AND HE...MAY IMPOSE DUTIES OR OTHER IMPORT RESTRICTIONS ON PRODUCTS OF SUCH FOREIGN COUNTRIES..."

THE PROPOSED AMENDMENTS TO THE EXPORT ADMINISTRATION ACT AUTHORIZE THE IMPOSITION OF EXPORT CONTROLS 'TO THE EXTENT APPROPRIATE TO RETALIATE AGAINST A NATION OR GROUP OF NATIONS WHICH HAVE UNREASONABLY RESTRICTED U.S. ACCESS TO THEIR SUPPLY OF A PARTICULAR COMMODITY' BUT URGES THE U.S. 'TO DEAL WITH WORLD SHORTAGES OF PARTICULAR COMMODITIES WHEREVER FEASIBLE THROUGH INTERNATIONAL COOPERATION...RATHER THAN BY TAKING UNILATERAL ACTION."

4. BOTH AUTHORITIES ARE, IN THEIR PRESENT FORM, DISCRETIONARY AND WILL PERMIT THE U.S. TO ACT UNILATERALLY OR IN A MULTILATERAL FRAMEWORK UNDER AGREED RULES. THESE PROVISIONS SUPPLEMENT EXISTING AUTHORITIES.

5. PROPOSED MONDALE/RIBICOFF AMENDMENT TO THE TRADE LIMITED OFFICIAL USE

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BILL CONTAINS PROVISIONS AUTHORIZING RETALIATION IN SOME CASES. MONDALE PROPOSAL IS ONE OF SEVERAL PROPOSED AMENDMENTS TO THE TRADE BILL; WE ARE UNABLE TO SAY AT THIS TIME WHAT SPECIFIC LANGUAGE, IF ANY, ALONG LINES OF MONDALE AMENDMENT WILL BE INCORPORATED INTO ADMINISTRATION BILL.

6. RELEVANT TEXT OF PROPOSED MONDALE AMENDMENT TO TRADE

BILL CONCERNING RETALIATORY ACTION WITH RESPECT TO  
RAW MATERIALS IS AS FOLLOWS:

(A) WHENEVER THE PRESIDENT DETERMINES THAT A FOREIGN  
COUNTRY OR INSTRUMENTALITY IMPOSES UNJUSTIFIABLE OR  
UNREASONABLE RESTRICTIONS, INCLUDING QUOTAS OR EMBARGOES,  
ON THE EXPORT TO THE UNITED STATES OF FOOD OR RAW  
MATERIALS REQUIRED FOR THE PRODUCTION OF ENERGY  
OR FOR ORDERLY ECONOMIC GROWTH, HE SHALL TAKE  
ALL APPROPRIATE AND FEASIBLE STEPS WITHIN HIS POWER  
TO OBTAIN THE ELIMINATION OF SUCH RESTRICTIONS, AND HE  
MAY TAKE ACTION UNDER SECTION 301 WITH RESPECT TO  
SUCH COUNTRY OR INSTRUMENTALITY AND ITS PRODUCTS, AND,  
IN ADDITION, HE MAY--

(I) IMPOSE RESTRICTIONS, INCLUDING QUOTAS AND EMBARGOES,  
ON THE EXPORT OF UNITED STATES PRODUCTS TO SUCH COUNTRY  
OR INSTRUMENTALITY,

(II) DENY ECONOMIC AND MILITARY ASSISTANCE AND PAR-  
TICIPATION IN ANY PROGRAM OF THE GOVERNMENT OF THE  
UNITED STATES WHICH EXTENDS CREDITS, CREDIT GUARANTEES,  
OR INVESTMENT GUARANTEES, TO SUCH COUNTRY OR  
INSTRUMENTALITY, AND

(III) PROHIBIT OR RESTRICT INVESTMENTS, DIRECT OR INDIRECT,  
IN SUCH COUNTRY OR INSTRUMENTALITY BY UNITED STATES  
CITIZENS AND DOMESTIC CORPORATIONS.

(B) IN DETERMINING WHAT ACTION TO TAKE UNDER SUBSECTION  
(A), THE PRESIDENT SHALL CONSIDER THE RELATIONSHIP OF  
SUCH ACTION TO THE INTERNATIONAL OBLIGATIONS OF THE  
UNITED STATES AND TO THE PURPOSES STATED IN SECTION 2.  
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7. U.S. ANTIDUMPING AND COUNTERVAILING DUTY LAWS APPEAR  
IN TITLE 19 OF THE UNITED STATES CODE. THE ANTIDUMPING  
ACT OF 1921, AS AMENDED (19 U.S.C. 160-73), ESTABLISHES  
TWO REQUIREMENTS FOR ASSESSMENT OF DUMPING DUTIES:  
(A) THE TREASURY DEPARTMENT MUST DETERMINE THAT SALES  
AT LESS THAN FAIR VALUE HAVE OCCURRED; AND (B) THE  
TARIFF COMMISSION MUST FIND THAT A U.S. INDUSTRY IS  
BEING, OR IS LIKELY TO BE, INJURED OR PREVENTED FROM  
BEING ESTABLISHED BY REASONS OF IMPORTS SOLD AT LESS  
THAN FAIR VALUE.

8. HOWEVER, COUNTERVAILING DUTY LAW (19 U.S.C. 1303)  
WOULD BE MORE RELEVANT TO TYPE OF LEGISLATION UNDER  
CONSIDERATION BY GOV (REF. A). THIS STATUTE REQUIRES

THE SECRETARY OF THE TREASURY TO ASSESS A SPECIAL  
DUTY ON IMPORTED MERCHANDISE BENEFITTING FROM PAYMENT  
OR BESTOWAL OF A COUNTRY OR GRANT. UNLIKE THE  
ANTIDUMPING LAW, THERE IS NO INJURY REQUIREMENT.  
COUNTERVAILING DUTY LAW IS INTENDED TO NULLIFY THE  
EFFECT OF SUBSIDIES. IT IS MANDATORY IN THAT THE  
SECRETARY OF THE TREASURY MUST IMPOSE A COUNTERVAILING  
DUTY ONCE HE DETERMINES THAT A BOUNTY OR GRANT EXISTS. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TRADE LAW, TRADE VISITS, MEETINGS, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 18 APR 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** MorefiRH  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
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**Disposition Remarks:**  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Office:** ORIGIN EB  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** (A) CARACAS 3189 (B) CARACAS 3261  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** MorefiRH  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 23 SEP 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <23 SEP 2002 by boyleja>; APPROVED <26-Sep-2002 by MorefiRH>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CONSULTATIONS ON MULTILATERAL TRADE NEGOTIATIONS  
**TAGS:** ETRD, PFOR, VE, XX, US  
**To:** CARACAS  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005